

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**MICHAEL COREY JENKINS, et al.**

**PLAINTIFFS**

**v.**

**CAUSE NO. 3:23cv374-DPJ-FKB**

**RANKIN COUNTY, MISSISSIPPI, et al.**

**DEFENDANTS**

**PLAINTIFF'S RESPONSE TO DEFENDANT'S SUPPLEMENTAL MOTION FOR  
JUDGMENT ON THE PLEADINGS**

**COME NOW** the Plaintiffs, by and through undersigned counsel, and file this Response to the Defendant's Supplemental Motion for Judgment on the Pleadings as follows:

Defendants come before the Court asking for judgment on the pleadings pursuant to Rule 12(c) of the Fed.R.C.P. on the basis of immunity from liability under the Mississippi Tort Claims Act, Miss.Code Ann. §11-46-1 *et seq.* Specifically, the Defendants ask the Court to hold that neither Rankin County nor Sheriff Bryan Bailey can be held liable for actions regarding any failures to hire, train, or supervise pursuant to Miss.Code Ann. §11-46-9(1)(d) and (g), which grant immunity from liability for hiring, training and supervision, since those are discretionary acts.

Plaintiffs' complaint makes no such claim for relief under the MTCA. Plaintiffs readily concede that no such liability can exist under the MTCA for those discretionary functions. Plaintiffs did make claims for failures in hiring, training and supervision under 42 U.S.C. §1983.

A municipality will be responsible under § 1983 for failure to supervise and train its officers if that failure results in a violation of an individual's constitutional rights. *City of Jackson v. Powell*, 917 So.2d 59, 75 (Miss.2005); *Callis v. Sellars*, 931 F.Supp. 504, 515 (S.D.Tex.1996). The city must however be found to be deliberately indifferent to the rights of persons with whom the police officers come in contact. *Id.* There is no respondeat superior

liability under § 1983. *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 691-92, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978); *East Miss. State Hosp. v. Callens*, 892 So.2d 800, 817 (Miss.2004).

Therefore, the fact that the officers acted in a manner that would be deliberately indifferent to a person's rights does not necessitate the city's liability. *Love v. King*, 784 F.2d 708, 710 (5th Cir.1986). The officers must have acted at the direction of the municipality or pursuant to a municipal policy or custom. *Monell*, 436 U.S. at 694, 98 S.Ct. 2018; *Love*, 784 F.2d at 710.

The plaintiffs have stated an abundance of facts which form the basis of a claim that the actions and inactions of Sheriff Bryan Bailey and Rankin County failed to supervise and train its officers, and that those failures resulted in a violation of the Plaintiffs' constitutional rights. An abundance of facts also has been alleged from which it can be found that the Sheriff and the County have been deliberately indifferent to the rights of the Plaintiffs and other citizens with whom the Sheriff's deputies came into contact, thus creating unofficial policies and customs which directly caused the damages suffered by the Plaintiffs.

Those allegations are unrelated to the MTCA, and the MTCA does not form the basis for any request for relief based upon a failure to hire, train, or supervise deputies employed by the

Sheriff's Department. Thus, the Defendants' Supplemental Motion for Judgment on the Pleadings should be denied.

**RESPECTFULLY SUBMITTED, THIS THE 17<sup>TH</sup> DAY OF NOVEMBER, 2023.**

/s/ TRENT WALKER

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**CERTIFICATE OF SERVICE**

I, Trent Walker, Attorney for the plaintiff do hereby certify that I have this day caused the foregoing document to be served via the CM/ECF filing system on all Counsel of record:

This the 17<sup>th</sup> day of November, 2023.

/s/ TRENT WALKER

Trent Walker, MSB#10475